

Serial No.: 10/597,950
Examiner: Marcello, Melvin C.

REMARKS

Claim Status

Claims 1-6, and 8-22 are pending in the application. Claim 7 was canceled, claims 16-22 were allowed, and claims 2, 3, 5-7 and 9-15 were objected to but would be allowed if rewritten in independent form.

Claim Rejections

Claims 1, 4, and 8 were rejected under 35 USC 102(b) as being anticipated by Wisner (2002/0165944). Applicants respectfully traverse this rejection for at least the reasons stated below.

As stated in MPEP § 2131, "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Applicants respectfully submit, as will be detailed below, that Wisner does not, either expressly or inherently, teach or suggest many limitations recited in the pending claims. For example, in originally filed claim 1, the second network entity takes control of only a portion of the functions of the first network entity in response to a partial failure in the first network entity whereas Wisner discloses, in paragraphs 42 and 62, that "within memory content 111, the first data center 104 has designated portion 114 as active (comprising the first active resources), and another portion 116 as inactive (or standby) (comprising the first standby resources). Within content 113, the second data center 106 has designated portion 124 as active (comprising the second active resources), and another portion 126 as inactive (or standby) (comprising the second active resources)" and In step 406, the first data center 104 determines the resource needs of the user. For instance, a user may have entered an input request for particular information stored by the first data center 104, or particular functionality provided by the first data center 104. This input request defines a needed resource. In step 408, the first data center 104 determines whether the needed resource corresponds to an active instance of the data content 111. In other words, the first data center 104 determines whether the needed resource is contained in the first active resources 114 or the first standby resources 116. If the needed


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resource is contained within the active resources 114, in step 410, the system determines whether the active resources 114 are operative. If both the conditions set forth in steps 408 and 410 are satisfied, the first data center 104 provides the needed resource in step 414." As can be seen, information in Wisner is pre-designated as active or inactive/standby.

However, purely in the interest of expediting the prosecution of the instant invention, Applicant has amended claims 1 and 8 by substantially including the following limitations: the second network entity takes control of only a portion of the functions of the first network entity in response to a partial failure in the first network entity when a failure to receive either a primary status message over the first network entity or a secondary status message over the second network entity. Support for these limitations, which are not taught or suggested by the cited art, can be found at least in canceled claim 7.

CONCLUSION

For the above reasons, the foregoing response places the Application in condition for allowance. Therefore, it is respectfully requested that the rejection of the claims be withdrawn and full allowance granted. Should the Examiner have any further comments or suggestions, please contact the undersigned.

	Respectfully submitted,
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